O. Rent Control
52

1952 **File No.** No. 12/52

Legal Department
BRANCH

Subject. Opinions on the Bombay Rents, Hotel & Lodging House Rate, Control Act, 1947

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1952

O. Rent Control/52

File No. No. 12/52

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C O N T E N T S.

Legal Department File No. O. Rent Control/1952.

Sr. No.	R.I./O.No.	Subject.	Pages.
		Opinions on the Bombay Rents, Hotel & Lodging House Rates Control Act,1947.	
1.	G-49/4-2-52-	Sec. 23 -- Question whether there would be legal obligation on the landlord to construct the wooden frame to keep the masonary from falling as such work would not be covered by the provisions of section 23 & whether it would be possible for Government to recover the cost of such construction from the landlord should Government undertake to construct it. (Copies not made)-	1-4
2.	G-154/9-4-52.	Question regarding fixation of standard rent of the godowns. (Copies not made).	5-10
3.	G-385/14-8-52.	Question whether B.P.T. is justified in demanding Rs.1-2-0 per sq.yd., for the whole year.	11-14
4.	G.467/19-9-52.	Question whether the view of the Additional G.P.Kaira that legally no increase in the present rent which is the stand rd rent, Under the Bombay Rent Act, 1947, is permissible, is correct.	15-18

5.....

5.	G-434/9-9-52.	Sec.4(1)-- Question whether the Act applies to premises belonging to a local authority.	19-20
6.	G-543/20-10-52.	Question whether the letter of the B.P.T. can be treated as ~~insufficient~~ sufficient notice of the increase in rent. (Copies not made).	21-24
7.	G-614/13-11-52-	Sec.15-- Question whether the Act applies to premises let to Government and subletting of premises is illegal under --	25-28
8.	G-659/3-12-52.	Question regarding applicability of the Act to premises belonging to the B.P.T. at rented to this Government.	29-38
9.	G-689/12-12-52.	Question whether the B.P.T. can charge rent in excess of the standard rent in respect of bags let to Government.	39-44
10.	G-710/24-12-52.	Question whether Government can refix the rent of the building taken up for locating Rationing Office at Viramgaum at Rs.200/- per annum form December 1951 or whether Government are liable to pay the rent of Rs.60/- p. M for that building as fixed by the Executive Engineer, Ahmedabad Division.	45-46
11.	G-715/26-12-52.	Question whether there is any objection to allowing transfers of licences to to premises the transfer or assignment of which falls under the proviso to section 15 of the Act read with G.R. H & L. G.D. No.5978/33,dated 12-5-1948.	

EKN 26/7/

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Office of the R.L.A.

The Bombay Port Trust's letter dated the 20th May 1950 was in respect of platform M only and the Bombay Port Trust is not now entitled to claim at the rate of Rs.1-2-0 per square yard dueing the monsoon that is from 1st June to 31st October at least for the period before the 4th July 1952 when presumably for the first time the Food Controller was informed that the rent would be Rs.1-2-0 per square yard per month for all the months of the year. The tenant is required to be given a notice of the increase in the rent so that he gets an option to terminate the tenancy if he does not agree to the increase. Rent being the most important condition in the tenancy agreement increase must be agreed to by the tenant. No such notice was given to the Food Controller; on the ~~xxxxx~~ contrary Bombay Port Trust's letter dated the 20th May 1950 is very clear on the point and it was written in respect of ~~xxx~~ platform M only. For other godowns the increase in the rent was communicated by the Bombay Port Trust's letter dated the 15th May 1950. In view of this legal position, Government may pay at the full rate after they got notice of the increase for the monsoon months but not retrospectively.

Sd/P.N. Lad,

Remembrancer of Legal Affairs.

U.R. to F.C.,No.G.385,dated the 14th ~~xxxxx~~ August 1952.

EKN.26/7/

17

OFFICE OF THE L.R.J.

The Bombay Rents, Hotel and Lodging House Rates Control Act,1947 applies to Nadiad Municipal Borough in Kaira District wherein the Juni Mills godowns are presumably located. The said Act applies to the premises let to Government under section 4(1). From 'A' of the District Magistrate, Kaira's letter at page 81 ante, it is clear that these godowns were not rented to any person prior to their being leased to Government in 1944 and some in subsequent years. The rents paid by Government for all these blocks would therefore be the standard rent within the meaning of that expression as defined in section 5(10) of the Act if the rents were fixed by the District Magistrate and agreed to by the landlord in the beginning. No increase of these rents would be permissible under section 7. The view taken by the Additional Gover ment Pleader at page 73 ante is correct.

Sd/P.M. Lad.
Remembrancer of Legal Affairs.

U.H. to C.J.O.No. G.467,dated the 19th September 1952.

EKN 26/7/

OFFICE OF THE R&L.A.

As provided in section 4(1) of the Bombay Rents, Hotel and Lodging House Rates Control Act,1947, that Act does not apply to premises belonging to a local authority (Ct. R.L.A's opinion No. C-479.dt. 6-10-51). The Municipality can therefore impose their own conditions on the tenants and the Assisatant Controller of Rationing (Government Grain Shops) will have to sign the memorandum as the rooms are rented by him from the municipality. He cannot refuse to sign the memorandum.

Sd/ P. M. Lad.
Remembrancer of Legal Affairs.

U.R. to A.C. of R.(G.G.S), No.C-434 dated the 9th September 1952.

EKN.26/7/

Office of the R.L.A.

The Bombay Rents, Hotel and Lodging House Rates Control Act,1947, applies to premises let to Government and therefore subletting of the Premises is illegal under section 15 thereof. Steps should therefore be taken to requisition the premises of the other three Government Grain Shops also even though there is no trouble from the landlords of the said shops.

Sd/P.M. Lad.

Remembrancer of Legal Affairs.

U.R. to R.C. of R.(GGS)No.G-614,dated the 13th November 1952.

EKN 26/7/

OFFICE OF THE R.L.A.

The view taken by the Solicitor General, which is in agreement with the view, originally taken by the R.L.A. in his opinion No.11152, dated the 7th August 1950 should be followed. The present Advocate General of Bombay, it may be added, is also of the same view.

The other point which is raised in this case is regarding the Bombay Port Trust's request to release the 16 godowns which are required for keeping cotton pressed bales on giving to Government 15 days' notice. The Bombay Port Trust has forwarded a copy of the letter written by the Assistant Director of Civil Supplies, Secretariat, Bombay on 12th September 1942 to the Land Manager, Bombay Port Trust in which he has stated that he undertakes to vacate the godowns at a fortnight's notice whenever required by Port Trust. The Bombay Port Trust, it seems, wants to take advantage of this undertaking given by the Assistant Director of Civil Supplies in 1942 in asking the Government to release the godowns after a 15 days notice. After this undertaking was given the Bombay Rents, Hotel and Lodging Hou Rates Control Act came into force and according to ection 12 of the said Act the landlord is not entitled to recover possession of the premises so long as the tenant pays or is ready and willin to pay the amount of standard rent and permitted increases, if any, and observes and performs the other conditions of the tenancy in so far as they are consistent with the provisions of the Act. The Civil Supplies Department can also refuse to sign the new agreements which the

Bombay.....

Bombay Port Trust has sent to the Food Controller for signature, as condition 2 of the aid leases provides that the sheds should be used for the storage of cotton pressed bales only; whereas the Food Controller is using them for storage of foodgrains. There is no obligation in law to sign the agreements. Whether as a matter of policy the original undertaking should be adhered to is a question which must be left to the decision of the Civil Supplies Department.

Sd/ P. M. Lad.

Remembrancer of Legal Affairs.

U.R. to F.C.,No.G.659,dated the 3rd December 1952.

EKN 26/7/

Office of the R.L.A.

The bays were occupied by Government after obtaining verbal permission from the Chairman Bombay, Port Trust. Under section 4(1) of the Bombay Rents, Hotel and Lodging House Rates Control Act,1947, that Act does not apply to premises belonging to the Bombay Port Trust. So long as therefore the bays were let to Messrs. Rallis India Limited, the Act was not applicable. As now Bombay Port Trust has decided to treat Government as their direct tenant of the bays, the premises are let to Government and therefore as opined by the Solicitor General, the Act would apply. The Bombay Port Trust cannot therefore charge rent in excess of the standard rent. The only difficulty would be that the Trustee's formal sanction is not yet given.

Sd/ P. M. Lad.

Remembrancer of Legal Affairs.

U.R. to F.C.,No. G.689,dated the 12th December 1952

EKN.26/7/

Office of the R.L.A.

The R.L.A. is requested to advise whether Government can refix the rent of the building taken up for locating Rationing Office at Viramgaum at Rs.200/- per annum from December 1951 or whether Government are liable to pay the rent of Rs.60/- p.m. for that building as fixed by the Executive Engineer, Ahmedabad Division.

If Rs.200/- per annum is the standard rent as defined in section 5(10) of the Bombay Rents, Hotel and Lodging House Rates Control Act,1947 then under section 7 of that act it is not lawful for the landlord to claim or receive on account of rent anything higher than Rs.200/- per annum except as otherwise provided in that section. Under Government Notification, Health and Local Government Department No.5975/33, dated the 16th December 1948 Part II of the Bombay Rents, Hotel and Lodging House Rates Control Act was extended to Viramgaum Municipal District in which the building is situated, from the 16th December 1948 that is the date of the notification and in that notification it was made clear that Part II of the Act shall apply to premises let to Government for the purpose of setting up an office. The rent of the premises after the 16th December 1948 would therefore be only the standard rent and not Rs.60/p.m. as fixed by the Executed Engineer. The Executive Engineer has stated in his letter at p.21 ante that the rents certified by his Department as reasonable are the maximum reasonable rents and if the building is available at a lesser rent it should be accepted. The landlord should therefore be paid only the standard rent and even for the rent paid upto December 1951 Government can claim refund. If the landlord disputes the amount of the standard rent, it can be got fixed by making an application under section 11 of the Bombay Rents, Hotel and Lodging House Rates Control Act,1947.

Sd/ P.M. Lad.

Remembrancer of Legal Affairs.

EKN 26/7/ U.R. to C. of R. No.G-710,dated the 24th December 1952.

OFFICE OF THE R.L.A.

Attention is invited to the provide to section 15 of the Bombay Rents, Hotel and Lodging House Rates Control Act,1947 and the Government Notification, Health and Local Self Government Department No.5975/33, dated the 12th May 1948 (at. p. 1355 of Vol. I of Bombay Rules and Orders). In this case in the sale deed which is at page 15 it is stated that the transfer is of sale of business as a going concern. Ordinarily, therefore, such subletting is valid. However, even though in the sale deed the business is shown as a going concern, it will have to be considered whether a business which is temporarily stopped going concern. The licence was cancelled on the 10th June 1952 going on at the shop till the 10th June 1952. The customers can be said to have been kept together so that if the purchaser wishes to keep on the business he can do so. The goodwill is also available The temporary stoppage of business would not therefore, take the case out of the notification referred to above. There is therefore no objection to allowing transfers of licences to premises, the transfer or assignment of which falls under the proviso to section 15 of the Bombay Rents Hotel and Lodging House Rates Control Act,1947, read with the Government Notification, Health and Local Self-Government Department No.5975/33, dated the 12th May 1948.

Sd/ P. M. Lad.

Remembrancer of Legal Affairs.

EKN.26/7/ U.R. to C.S.O.No.G-715.dated the 26th December 1952.